PROCLAMATION NO. 365/2003
A PROCLAMAION TO PROVIDE FOR THE ESTABLISHMENT OF FEDERAL PRISONS COMMISSION

WHEREAS, it is necessary to set up an organ of Federal Prisons that adheres to the Constitution of the Federal Democratic Republic of Ethiopia and that is committed to the laws enacted on the basis of the Constitution;

WHEREAS, in due course of implementing judicial decisions, need to undertake the functions of the custody, reformation and rehabilitation of prisoners in order to duly contribute their part in crime prevention;

NOW, THEREFORE, in accordance with Article 55 (1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

PART ONE
GENERAL

1) Short Title
This proclamation may be cited as the “Federal Prisons Commission Establishment Proclamation No. 365/2003.”

2. Definition
In this Proclamation, unless the context requires otherwise:
# Establishment of Federal Prisons Commission

1. **Establishment**

   1) The Federal Prisons Commission, hereinafter referred to as “Commission,” is hereby established and granted its own juridical personality as an organ of the Federal Government.

2. **Without prejudice to its legal and professional independence, the Commission shall be accountable to the Ministry.**

3. **Head Office**

   1) The Head Office of the Commission shall be in Addis Ababa;

   2) Prisons that were administered under Federal Prison Administration shall be incorporated into the Commission.

3) The Commission may establish, in any place, organs that undertake the powers and duties entrusted to the Commission.

# Objectives

The objectives of the Commission shall be to admit and ward prisoners, and provide them with reformative and rehabilitative service in order to enable them make attitudinal and behavioral changes, and become law-abiding, peaceful and productive citizens.

# Powers and Duties of the Commission

The Commission shall have the following powers and duties.

1) ward and reform the prisoners it admits upon judicial sentences or warrants; and shall also enforce other judicial decisions;

2) take prisoners to court;

3) maintain prisoners’ health care; and provide prisoners with free medical treatment, food and shelter in accordance with the Regulations to be issued on the basis of this Proclamation; undertake and encourage tasks, services and activities necessary for the physical and mental well-being of prisoners; particulars shall be determined by the Directives to be issued by the commission;

4) provide prisoners with academic education, vocational training, and social work services and counseling services to facilitate their post-release rehabilitation and respect for the law; particulars shall be determined by regulations and directives;
Powers and Duties of the Management Council

1) Examines studies on country-wide policy, strategy, and standardization towards the improvement of the custody and treatment of prisoners, and towards improving prison administration; and thereupon submit the studies with recommendations, to the Joint Council of Federal Prison Commissioners and Regional Prison heads;
2) Conducts studies on the organization, structure and operation of the Commission and submit recommendations of necessary measures to the Minister;
3) Prepare training plans of the Commission;
4) Prepare the draft budget of the Commission; and submit same to the Minister through the commissioner, for approval by the Federal Government;
5) Evaluate the Commission’s annual plan, audit report and performance; and submit same with proposals, to the Minister;
6) Make efforts towards good relations between the Commission and Regional Prison Commissions.

5) Upon court order, transfer prisoners with warden escort from a Federal Prison to a Regional Prison, or from any prison to another.
6) Determine and implement disciplinary measures, in accordance with the Regulations or Directives to be issued under this Proclamation, against prisoners who infringe prison rules while in custody;
7) Gather and organize country-wide data and statistics about prisoners;
8) Submit to the competent organ recommendations of:
   (a) parole, or
   (b) pardon,
   so that prisoners be released in accordance with the law, on the basis of their behavioral reform;
9) Recruit, employ, train and administer the necessary prison wardens and other necessary staff;
10) Facilitate opportunities for training in Ethiopia or abroad in order to upgrade the professional competence of the Commission’s employees;
11) Undertake studies that can help improve the custody and treatment of prisoners, and that facilitate country-wide similarity and standardization in the professional competence and service of prison wardens;
12) Provide professional, technical and advisory assistance to Regional Prisons;
13) Enter into contracts; sue in its own name; or, be sued.

7. Structure of the Commission

1) The Commission shall have:
   (a) a commissioner and a deputy commissioner appointed by the Federal Government;
   (b) management council of the commission is composed of commissioner, deputy commissioner and the head of departments: and
   (c) prison warden and civil service staff necessary for its functions.

2) The particulars of organizational set-up of the Commission shall be determined pursuant to Article 9 (6) of this Proclamation.

8. Powers and Duties of the Management Council of the Commission

The Management Council Shall:
1) Examine studies on countrywide policy, strategy, and standardization towards the improvement of the custody and treatment of prisoners, and towards improving prison administration; and thereupon submit the studies with recommendations, to the Joint Council of Federal Prison Commissioners and Regional Prison heads;
2) Examine studies on the organization, structure and operation of the Commission and submit recommendations of necessary measures to the Minister;
3) Prepare training plans of the Commission;
4) Prepare the draft budget of the Commission; and submit same to the Minister through the commissioner, for approval by the Federal Government;
5) Evaluate the Commission’s annual plan, audit report and performance; and submit same with proposals, to the Minister;
6) Make efforts towards good relations between the Commission and Regional Prison Commissions.
Powers and Duties of the Minister

The Minister shall have the following powers and duties,
1) follow-up the overall activities of the Commission;
2) submit to the Prime Minister the nomination of the Commissioner and Deputy Commissioner of the Commission for appointment;
3) approve the appointment of head department of the Commission;
4) submit the annual work plan, draft budget, report and performance of the Commission to the Federal Government with recommendations;
5) follow up that the rights of prisoners are respected and their custody secured, and that prisoners are enabled to be reformed and productive citizens upon their release;
6) examine and approve studies submitted by the Commission on organizational and capacity building programs;
7) take appropriate steps to enhance the competence and effectiveness of the Commission; and undertake tasks of supervision;
8) take the steps necessary for the implementation of this Proclamation.

Powers and Duties of the Commissioner

1) The Commissioner shall be accountable to the Minister, and shall direct and coordinate the tasks of the Commission.
2) Without prejudice to Sub-Article (1) of this Article the Commissioner shall:
   (a) submit the nomination of department head to the Minister for approval;
   (b) direct the implementation of the Administrative Regulations of the Commission;
   (c) recruit, employ and train the necessary prison warden, employ and administer other necessary staff;
   (d) render decisions on appeals lodged against decisions made by the Federal Prisons Complaints Hearing Organ and Discipline Committee;
   (e) prepare and submit the work plan and the draft budget of the Commission, submit same to the Minister, and implement them upon approval by the Federal Government;
   (f) effect expenditures on the basis of the budget allocated to the Commission, and cause audit and inspection to be conducted;
   (g) cause studies to be conducted with regard to the Commission’s organization, and capacity building; as regards improvement of the custody and treatment of prisoners; and towards facilitating the operational similarity and standardization of prison warden service;
   (h) make efforts towards good relations between the Commission and Regional Prison
   (i) preside over the meetings of the Management Council of the Commission;
   (j) undertake external relation in matters pertinent to the Commission.

Powers and Duties of the Deputy Commissioner

1) The Deputy Commissioner shall:
   (a) assist the Commissioner in planning, organizing, directing and coordinating the functions of the Commission;
   (b) follow up the performance of a part of Commission’s departments pursuant to the division of labour made as per the structure of the Commission.
3) An any citizen recruited in accordance with Sub-Article 1 of this Article shall, if he is a member of a political party, withdraw from his political party membership upon his employment as a prison warden member.

1) The term of obligatory service of every prison warden shall be seven years. The particularsof implementation shall be determined by regulations; (e) owing to inefficiency reports or disciplinary fault;

12. Budget
The budget of the Commission shall be allocated by the Federal Government.

13. Books of Accounts and Audit
1) The Commissioner shall keep complete and accurate books of accounts.
2) Books of Accounts and financial documents of the Commission shall be audited annually by the Auditor General, or by an auditor designated by the Auditor General.

PART THREE
ADMINISTRATION OF THE FEDERAL PRISONS
WARDEN

14. Requirements for prison warden recruitment
1) Any Ethiopian who volunteers to be recruited as a member of the Federal Prisons Commission shall cumulatively fulfill the following:
   (a) Adherence to the Constitution of the Federal Democratic Republic of Ethiopia;
   (b) The educational standard, physical fitness and good health required upon recruitment for prison warden;
   (c) Good conduct;
   (d) No record of criminal conviction by a court of law;
   (e) Attainment of eighteen years of age or above;
   (f) Completion of prison wardens' training.

2) The recruitment to be made under Sub-Article (1) of this Article shall also consider the equitable representation of gender, nations nationalities and peoples.

3) Any citizen recruited in accordance with Sub-Article 1 of this Article shall, if he is a member of a political party, withdraw from his political party membership upon his employment as a prison warden member.

15. Oath
Every recruit employed as a prison warden shall take oath of loyalty to the Constitution in carrying out the public confidence and the professional responsibility entrusted to him. The content of the oath shall be determined by regulations.

16. Term of service
1) The term of obligatory service of every prison warden shall be seven years. The particulars of implementation shall be determined by regulations.
2) The employment of any prison warden shall terminate on any one of the following grounds:
   (a) Upon death;
   (b) When a request for release, submitted in accordance with the Regulations is accepted;
   (c) Due to unfitness for his job on account of illness or physical injury verified by a medical board;
   (d) Due to judicial conviction in a criminal offence, which, in accordance with the Regulations, renders him ineligible for his job; particulars shall be determined by regulations;
   (e) Owing either to inefficiency reports or disciplinary fault;
17. Rights

1) Every prison warden shall be entitled to:
   (a) Salary according to the scale approved by the Federal Government;
   (b) rations, various allowances, uniforms, and medical service in accordance with the Administrative Regulations of the Commission;
   (c) retirement pension rights in accordance with pension laws;
   (d) the services of an attorney at law, at the Commission’s expense, for liabilities incurred while carrying out his task within the scope of his duties; particulars of implementation shall be determined by regulations;
   (e) the benefits stipulated under the relevant pension laws, where he, in relation to his duties, sustains injuries that permanently cause his total or partial disability to work.

2) Every prison warden
   (a) shall, upon incidence, have the right to forward appropriate questions to his superiors, indicate wrongs and, resolve problems through discussion;
   (b) may lodge complaints through the appropriate hierarchy.

18. Duties

Every prison warden shall:
1) perform his duties by fully respecting the human rights and democratic rights enshrined in the Constitution and the international instruments adopted by Ethiopia, and in accordance with other relevant laws;
2) show an identity card that verifies his identity while carrying out his duties.

19. Age of Retirement

The age of pension retirement for any prison warden shall be same as that of civil servants as determined by the relevant pension Iwas.

20. Complaints Hearing Organ of Federal Prisons

Complaints Hearing Organ of Federal Prisons Commission shall be established; the particulars shall be determined by the Directives to be issued by the Commission.

21. Administrative Regulations

Federal Prisons’ Wardens’ regulations shall be issued by the Council of Ministers.

PART FOUR
TREATMENT OF PRISONERS

22. Principle

1) Prisoners shall have the right to be treated conditions of respect for human dignity.
2) The treatment of sentenced prisoners shall facilitate their post-release respect for law and their rehabilitation towards self-supporting reintegration into society.
3) Remand and civil prisoners shall not be presumed as offenders, and shall be entitled to treatment different from convicted prisoners.

23. Admission of Prisoners

No person shall be admitted into custody by the Commission without court warrant.
24. **Prohibition of Discrimination**

No adverse distinction shall be made among prisoners on grounds of gender, religion, political opinion, nation, nationality, or social origin.

25. **Separate Accommodation**

1) Female prisoners shall have prison premises entirely separate from male prisoners.

2) To the extent that circumstances allow, prisoners shall have separate accommodation on the basis of age, offences and similar factors.

26. **Accommodation Standards**

1) Prison premises and compounds shall not be hazardous to health; and they shall have fresh air and sufficient lights.

2) Without prejudice to Sub-Article 1 of this Article, prison premises shall have the due variation to accommodate prisoners with manifest behavioral reform and repentance, thereby motivating a positive spirit towards reform and rehabilitation.

27. **Food and Health Care**

Prisoners shall, free of charge, be provided with sufficient food and the necessary medical care and treatment that, as much as possible, enable the maintenance of their health.

28. **Female Prisoners Having Dependent Infants**

1) Where his interest so requires, a dependant infant not beyond eighteen months and that need close maternal care may stay with his mother who is in custody.

2) The Commission shall provide what is necessary to the health and care of the infant.

3) Where the imprisonment of the mother is found to have an adverse physical or psychological impact on the infant, the commission shall facilitate the possibilities of finding a guardian or tutor to the infant.

29. **Access to visitors**

Prisoners shall have the right to communicate with their spouses, close relatives, friends, medical doctors, legal counselors and religious leaders. Particulars shall be determined by the Directives to be issued by the Commission.

30. **The right to impart information about imprisonment and transfer**

Every Prisoner shall have the right to promptly inform his family or any person of his imprisonment, or of his transfer on any ground from his current prison to another.

31. **Engagement in work and permission**

1) Every prisoner serving his sentence shall be assigned to work that suits his ability and vocation, and that does not affect his health; and shall receive remuneration for his work in accordance with the Directives to be issued by the Commission.

2) The conditions of permission to enable prisoners settle various social problems with warden’s escort shall be determined by directives.
32. **Obligations of prisoners**

Prisoners shall observe the disciplinary requirements stipulated by regulations or directives pertaining to custody, discipline, sanitation, health care, social life, and other issues.

33. **Criminal offence**

Any prisoner who commits a criminal offence while in custody shall be liable under criminal law.

### PART FIVE

**Miscellaneous Provisions**

34. **Functional relations of the Commission with Regional Prison Authorities**

1) The Commission shall, have relations with Regional Prison Authorities in order to improve and enhance the administration modus operandi of prisons, the custody and treatment of prisoners, and also facilitate training opportunities to prison warden and other staff.

2) The Commission and Regional Prison Authorities may at any time hold the meeting of the Joint Council.

3) The Joint Council shall be presided by the Federal Prisons Commissioner.

4) The Joint Council shall:

   (a) issue Internal Regulations on mutual performance modalities;
   (b) share experience by reviewing the activities of prisons; cause the development and standardization of performance rules and directives with regard to their content;
   (c) jointly devise the direction, content and standard of prison wardens' training.
   (d) deliberate on the studies presented by the Commission in accordance with Article 8 Sub-Article (1) of this Proclamation; submit the studies to the competent organ for a decision on courses of action, or render decisions within the scope of its functions; and ensure their implementation.

5) The Commission and Regional Prison Authorities shall supervise the practical implementation of the decisions of the Joint Council in their respective organs.

6) Regional Prisons shall forward to the Commission periodic reports and statistics as regards the general condition of prisoners.

35. **Termination of military ranks**

1) No prison warden member of any hierarchy shall have a military rank. However, he shall have ranks and badge of the Prison warden. The particulars shall be determined by regulations.

   2) Every prison warden shall have a uniform and a badge or sign that indicates his identity including his name, serial number, department and position.

36. **Performance modalities**

1) Teamwork shall be the principal pattern of performance by officials and employees at all levels of the Commission’s structure. Teamwork shall entail joint and several responsibilities.

2) Officials of the Commission at all levels shall discharge their duties of decision-making in accordance with the powers entrusted to them.
3) The activities of the Commission shall pursue the principles of accountability and transparency; and shall be based on popular participation.

37. Forbidden acts
Any treatment or act, that is inhuman or that violates human dignity is forbidden.

38. Repealed and inapplicable laws
1) The Prisons Administration Establishment Proclamation No. 45/1944 has been repealed by this Proclamation.
2) Any law which is inconsistent with this Proclamation shall not apply to matters provided for in this Proclamation.

39. Powers to issue regulations and directives
1) The Council of Ministers may issue regulations for the implementation of this Proclamation.
2) The Commission shall have the power to issue directives for the implementation of this Proclamation and the Regulations issued there under.

40. Effective Date
This Proclamation shall come into force as of the 9th day of September, 2003.

Done at Addis Ababa, this 9th day of September, 2003.

GIRMA WOLDEGIORGIS
PRESIDENT OF THE FEDERAL
DEMOCRATIC REPUBLIC OF ETHIOPIA